

AGREEMENT FOR PCS TOWER AND APPURTENANCES

This License Agreement ("Agreement") is made this ____ day of _____, 200__, between the City of Lincoln, Nebraska, a municipal corporation (hereinafter "CITY"), and AT&T Wireless PCS, LLC, a Delaware limited liability company, d/b/a AT&T Wireless Services, by AT&T Wireless Services, Inc., a Delaware corporation, its manager, having an office at 2729 Prospect Drive, Suite 200, Rancho Cordova, CA 95670 (hereinafter "AT&T").

1. Description of Premises. CITY grants to AT&T a license to occupy and use a certain parcel of real property located in the City of Lincoln, State of Nebraska, as shown on the attached Exhibit A (the "Premises"), which is incorporated herein by this reference.

2. Term of Agreement. The primary term ("Primary Term") of this Agreement will be for ten (10) years, and will commence on execution of this Agreement. The Primary Term will terminate on the tenth anniversary date of the execution of this Agreement, unless sooner terminated as provided herein.

This Agreement may thereafter be renewed for three additional terms (each a "Renewal Term") of five years each. The Agreement shall automatically renew for the first Renewal Term (i.e., between years 10 and 11), unless AT&T provides CITY with a notice of intention not to renew not less than ninety (90) days prior to the expiration of the Initial Term. The second Renewal Term (i.e., between years 15 and 16) and the third Renewal Term (i.e., between years 20 and 21) shall require the mutual consent of AT&T and CITY. CITY represents that at the time it enters into this Agreement it has no present intention not to renew this Agreement for the second and third Renewal Terms.

The parties agree that this Agreement is irrevocable until this Agreement expires or terminates as provided herein.

3. Use of Premises. The Premises will be used for the purpose of installing, constructing, maintaining, repairing, operating, altering, inspecting, expanding, adding to and removing AT&T's communications equipment, including, but not limited to, the following:

a. Any and all antennas, dishes and/or grids as AT&T may deem appropriate, located between the 75 feet and 85 feet level on the CITY's new self support 911 tower located at or near the Premises ("Tower");

b. Transmission lines and mounting and grounding hardware;

c. One communications compound containing, without limitation, telecommunications equipment consisting of a 12' by

28' equipment shelter, wireless communication equipment, switches, power supplies, batteries, and accessories;

d. An optional emergency generator (or other back up power source) to be located, at AT&T's option, within the communications compound, adjacent to the communications compound or within a separate area adjacent to the communications compound. The fuel tank for the generator (gasoline, diesel, butane, propane, LPG or other) may be located either inside or outside the communications compound, in accordance with applicable building codes.

For the purposes of this Agreement, all of AT&T's equipment, equipment shelter, antennas, dishes, lines, switches, power supplies, batteries, communications compound, generator, generator shelter, accessories, and necessary appurtenances will be referred to herein collectively as the "Communications Facility." Any associated concrete pads may be installed by AT&T.

AT&T will submit construction drawings and plans to the CITY for written approval prior to construction. Thereafter, CITY shall have thirty (30) days to accept or reject AT&T's building plans (the "Approval Period"). Approvals will not be unreasonably withheld. If CITY does not approve the plans and specifications, this Agreement will be void at AT&T's election, and terminate without penalty. The approved plans and specifications shall be attached hereto as Exhibit B.

As soon as reasonably possible after CITY accepts the building plans, AT&T shall construct and install, at AT&T's cost, the Communications Facility at the location depicted on Exhibit A, in accordance with the approved plans and specifications in Exhibit B. The Communications Facility may be installed by AT&T or by any of AT&T's agents or contractors. AT&T may make alterations to the Communications Facility from time to time as AT&T determines to be necessary or desirable, subject to the approval process described above, which approval will not be unreasonably withheld.

AT&T may, at its own cost and expense, install, maintain and operate on the Tower or on the Premises, only the equipment necessary for the operation of the Communications Facility in accordance with the plans approved by CITY, as such plans may be amended from time to time for technological or capacity changes. Any damage to the Premises or Tower caused by the erection, operation and maintenance of the Communications Facility shall be at AT&T's sole expense. AT&T may run transmission lines between AT&T's equipment and AT&T's antennas, dishes and grids.

All work to be performed on the Premises and any easement area shall be performed in a good and workmanlike manner, and in accordance with all applicable

governmental laws, ordinances, regulations and codes. AT&T shall obtain all permits necessary for such construction. All contractors working on the Premises shall carry statutory worker's compensation insurance and liability insurance coverages as are customarily maintained by reputable general contractors in the Lincoln, Nebraska area.

4. Other License Agreements and Permits. AT&T shall secure from the proper governmental authorities all licenses and permits required by law for the erection, maintenance and operation of the Communications Facility, before construction of the Communications Facility.

5. Ownership of Tower Improvements. The ownership of all Non-Antenna Tower Improvements thereon shall pass from AT&T to CITY when said installation is completed. As used in this Agreement, the term "Non-Antenna Tower Improvements" refers to all fixtures and attachments of any nature on the Tower other than: (1) the antenna of AT&T; (2) the antenna mounting structure; (3) all cabling to the antenna; and (4) all other equipment necessary to operate the Communications Facility.

6. Fees. AT&T shall pay to CITY a fee to occupy and use the ground space in the Premises and space on the Tower ("Fee"). Beginning upon the execution of this Agreement and continuing thereafter for the duration of the first year of the Agreement, the annual Fee shall be \$21,500 payable in twelve equal monthly installments of \$1791.67 in advance on or before the first day of each and every month. The annual Fee in each succeeding year of the Primary Term and any Renewal Term shall be 104% of the Fee in effect during the immediately preceding lease year (the "Percentage Increase") (for example, and by way of illustration only, if the Percentage Increase of 104% is used and the prior year's Fee was \$10,000, the next year's Fee would be \$10,400). The Fee for any period during the term of this Agreement that is less than one (1) year will be prorated on a monthly basis. All payments shall be made payable to and mailed to the following address:

City Treasurer's Office
Attn: Melissa Jones
555 South 10th Street
Lincoln, NE 68508

7. Access to CITY Property. AT&T shall have twenty-four hour, seven day per week access to the Premises, subject to the following. It is acknowledged that the Tower and appurtenances thereto are constructed on CITY property which is a vital part of CITY's operations. AT&T shall operate its Communications Facility in such a manner so that the operation does not interfere with CITY's operation of its property nor will it interfere with access to the property by CITY personnel, agents or contractors. AT&T agrees to comply with any rules, regulations, and procedures that may be adopted by CITY from time to time to provide

reasonable security measures to protect the Premises and CITY. CITY retains the right to use the property at any time in connection with the need of CITY to provide service to the public. CITY will endeavor to do so in such a manner so as to not interfere with the construction, operation and maintenance of AT&T's Communication Facility. CITY retains the right to use the property in any ways that do not interfere with AT&T's uses.

8. Taxes. Since the real property is owned and used by a governmental entity (CITY), it is tax exempt. AT&T shall be responsible for and pay all taxes before any penalties or interest shall accrue thereon, as an additional Agreement fee, if taxes are subsequently levied against the Premises. AT&T will be responsible for payment of all personal property taxes assessed directly upon and arising solely from its possession or use of the communications facility or buildings on the Premises.

9. Payment of Utilities. AT&T shall fully and promptly pay for all utility service of every kind furnished to the Premises throughout the term. CITY shall not be liable for any damage to equipment or loss of revenue to AT&T resulting from the interruption of utility services. All fees due under this Agreement shall continue notwithstanding any interruption of power or other required utility facilities, except for the willful act of CITY.

10. Maintenance of Premises. CITY will maintain the Tower in a proper operating and safe condition. All costs associated with the maintenance and repair of the Tower, including painting, will be paid by CITY, unless the damage to the Tower is caused by AT&T, in which case AT&T shall repair such damage or, at AT&T's option, reimburse CITY for the costs and expenses incurred by CITY to repair the damage.

AT&T shall, throughout the term of this Agreement, at its own cost and expense, keep and maintain the Premises, Communications Facility and all appurtenances thereto including all constructed improvements in good, sanitary, lawful and neat order, condition and repair, but not including any of CITY's other property, the Tower and Non-Antenna Tower Appurtenances. Any landscaping or screening of the Premises required by the City of Lincoln or any other appropriate governmental authority shall be done at the sole cost and expense of AT&T, including all necessary maintenance. Neither AT&T nor any other party shall be allowed to display any signage or advertisement on the Tower, on any building within the Premises or anywhere on the Premises, except as required by law. AT&T shall take all necessary measures and precautions to prevent unauthorized persons access to the Premises, buildings located on the Premises, and to the Tower.

11. Liability. CITY shall not be liable for damage to AT&T's improvements or for any loss or damage to any vehicles parked upon the Premises, except for the willful act of CITY. AT&T shall at all times during the term of this Agreement carry at its own expense commercial general liability insurance of not less than Five Million Dollars (\$5,000,000) per occurrence combined single limit for bodily injury and property damage, naming CITY as an additional insured on such policy. CITY may, at its discretion, increase the required amounts of

such insurance at the beginning of the second Renewal Term and the third Renewal Term. AT&T shall furnish CITY with a certificate of such insurance policy which shall provide such insurance policy shall not be reduced or changed without first having given CITY thirty (30) days written notice of such change. Any contractor or subcontractor performing work on the Premises for or on behalf of AT&T shall carry workers' compensation insurance, comprehensive general liability and automobile insurance covering the work in such amounts and with companies satisfactory to CITY with said policies naming CITY as an additional insured.

12. Indemnification. To the fullest extent permitted by law, AT&T shall indemnify and hold harmless CITY, its officers, agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from AT&T's use and occupation of the Premises, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by AT&T or anyone directly or indirectly employed by AT&T, or anyone for whose acts any of them may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. This section shall not require AT&T to indemnify or hold harmless CITY for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of CITY.

13. Assignment, Renting or Leasing Space. AT&T shall have the right to sublicense or assign its rights under this Agreement to any party affiliated, under common control or otherwise related to AT&T, successor legal entities or any party acquiring substantially all the assets of AT&T (the "Control Group") without the consent of CITY. AT&T may sublicense or assign its rights under this Agreement to any other entity with CITY's consent, which will not be unreasonably withheld; provided, however, such assignment or sublicense shall not relieve AT&T of any of its liability or responsibility hereunder.

14. Events of Default. Default shall occur if any one or more of the following events shall happen:

a. AT&T shall default in the punctual payment of the Fee and such default shall continue for thirty (30) days after receipt of written notice from CITY; or

b. If either party shall neglect or fail to perform or observe any of the material provisions of this Agreement, and such failure is not cured within thirty (30) days after receipt of written notice thereof from the other party, the other party may, at its option, (1) cure the failure at the defaulting party's expense, or (2) terminate this Agreement. If any such default cannot reasonably be cured within thirty (30) days, the defaulting party will not be deemed to be in default under this Agreement if it commences curing such default within the thirty (30) day period and thereafter diligently pursues such cure to completion.

15. Environmental Laws. AT&T warrants and agrees that it will conduct its activities on the property in compliance with all applicable environmental laws. CITY represents, warrants and agrees that it has in the past and will in the future conduct its activities on the property in compliance with all applicable environmental laws and that the property is free of hazardous substances as of the date of this Agreement.

CITY shall be responsible for, and shall promptly conduct, any investigation and remediation as required by any environment laws or common law, of all spills or other releases of hazardous substances, not caused solely by AT&T that have occurred or which may occur on the property.

AT&T agrees to defend, indemnify and hold CITY harmless from and against any and all claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorneys fees that CITY may suffer due to the existence or discovery of any hazardous substance on the property or the migration of any hazardous substance to other properties or release into the environment arising solely from AT&T's activities on the property.

The indemnification in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority.

16. Nebraska Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska and any legal action brought in respect thereto shall be brought either in the state courts of the State of Nebraska located in Lincoln, Nebraska, or if applicable, in the United States District Court located in Lincoln, Nebraska.

17. Binding Effect. This Agreement shall inure to the benefit and be binding upon AT&T, its successors or assigns.

18. Interference. AT&T shall at all times pertinent hereto be responsible for the proper operation of its equipment located on the Premises and shall make certain that the same complies with all pertinent laws, rules and regulations of any applicable governmental authority. In the event that AT&T's equipment causes interference with any of CITY's equipment or to any communications facilities of a third party including the public, AT&T, upon notice received of the interference, shall take all steps necessary to correct and eliminate the interference as soon as possible and shall take all necessary precautions and corrective action needed to prevent the reoccurrence of the interference.

Notwithstanding the foregoing, the parties intend to be bound to the principle that the communications provider who is first in time on the Tower or Premises shall be protected from interference by subsequent providers. CITY will not use the Tower or Premises in any

manner which will limit, impair or restrict the use or operations of the Communications Facility or allow any use which could cause any destructive or conflicting interference with the Communications Facility. If any harmful interference shall result from the operation of any transmitters, equipment, antennae, dishes or other equipment or devices to the Communications Facility, then CITY shall immediately cause such operations to cease until such interference is eliminated, provided that to do so would not jeopardize, compromise, limit, impair, or otherwise interfere with CITY's use of its properties. If CITY is unable to cure such interference within thirty (30) days of AT&T's demand, AT&T may terminate this Agreement without penalty.

19. Additional Agreements. AT&T acknowledges the right and authority of CITY to grant additional leases, licenses, and agreements for telecommunications equipment and appurtenances thereto to other users on CITY's Tower so long as such grant does not interfere with AT&T's use of its Communication Facility.

20. Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the conditions of this Agreement and supersedes all prior agreements and understandings between the parties with respect to such subject matter. The representations, warranties, undertakings, or promises, whether oral, implied, written, or otherwise, have been made by either party hereto to the other unless expressly stated in this Agreement or unless mutually agreed to in writing between the parties hereto after the date hereto, and neither party has relied on any verbal representation, agreements, or undertakings not expressly set forth herein.

21. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier, to the following addresses:

CITY: Emergency Communications Division
575 South 10th Street, Room A-057
Lincoln, NE 68508
TEL: (402) 441-6000
FAX: (402) 476-0528

With a copy to: Steven Huggenberger
Assistant City Attorney
575 S. 10Th / Room 4201
Lincoln, Nebraska 68508
TEL: (402) 441-7286
FAX: (402) 441-8812

AT&T: AT&T Wireless Services
Attn: Shared Property Analyst
4544 South Lamar, Suite 600
Austin, TX 78745-1500

With a copy to: AT&T Wireless Services
Attn: Legal Department
2729 Prospect Drive, Ste. 200
Rancho Cordova, CA 95670

With a copy to: Ronald J. Ripper
System Development Manager
AT&T Wireless Services
10920 Ambassador Drive, Suite 540
Kansas City, MO 64153
TEL: (816) 584-4001
FAX: (816) 584-4199

A party may change its address to which any notice or demand may be given by written notice thereof to the other party.

22. Contingencies. This Agreement and AT&T's obligations hereunder are expressly contingent upon the following:

a. AT&T's satisfaction with the status of title to the Premises and, at AT&T's option and its expense, AT&T's receipt of a leasehold title insurance policy insuring its interest in the Premises, in form and substance satisfactory to AT&T. CITY shall execute the standard form of title company affidavit in order to enable AT&T to obtain title insurance on the Premises free and clear of all exceptions other than those which have been disclosed in writing to AT&T and which do not interfere with AT&T's use of the Premises; and

b. AT&T's satisfaction, in its sole and absolute discretion, with the feasibility of engineering, installing, constructing and operating the Communication's Facility; and AT&T's receipt of all necessary or appropriate building and construction permits and all licenses, permits, approvals and consents from all applicable governmental authorities necessary or appropriate for AT&T to use and operate the Communications Facility on the Premises.

In the event that any of the foregoing occurs AT&T may terminate this Agreement without penalty.

AT&T is hereby given the right to survey, soil test, radio coverage test, and to conduct any other investigations needed to determine if the surface and location of the Premises are suitable for AT&T's use intended by this Agreement.

23. Termination. AT&T may terminate this Agreement at any time by notice to CITY without further liability if:

a. AT&T does not obtain all permits or other approvals (collectively, "approval") required from any governmental authority or any easements required from any third party to operate the Communications Facility, or if any such approval is canceled, expires or is withdrawn or terminated; or

b. CITY fails to have proper ownership of the Premises or authority to enter into this Agreement.

c. By AT&T on sixty (60) days written notice for any reason, other than (a) or (b) above, or in paragraph 18, above, so long as AT&T pays CITY a termination fee equal to six (6) months rent, at the then current rate.

Upon termination, all prepaid rent will be retained by CITY unless such termination is due to CITY's failure of proper ownership or authority, or such termination is a result of CITY's default. Additionally, upon termination or non-renewal AT&T must remove its antenna arrays and platforms that it owns from the Tower within thirty (30) days after the expiration of this Agreement. Failure to so remove the antenna arrays and platforms will result in the same being owned by CITY, at the option of CITY.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF LINCOLN, NEBRASKA,

By: _____
Mayor Don Wesely

AT&T WIRELESS PCS, LLC,
a Delaware limited liability company,
d/b/a AT&T Wireless Services,
by AT&T Wireless Services, Inc. a
Delaware corporation, Its Manager

By: Ronald J. Ripper 12-14-00
Ronald J. Ripper
System Development Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001, by Don Wesely, Mayor of the City of Lincoln, Nebraska, a municipal corporation, on behalf of such entity.

Notary Public

STATE OF KANSAS)
) ss.
COUNTY OF WYANDOTTE)

On this 14th day of December, 2000, before me personally appeared Ronald J. Ripper, and acknowledged under oath that he is a System Development Manager of AT&T WIRELESS SERVICES, INC., the Delaware corporation that executed the within and foregoing instrument to be the free and voluntary act and deed of the corporation as manager for AT&T WIRELESS PCS, LLC, a Delaware limited liability company (AT&T PCS), for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of the corporation as a manager for AT&T PCS.

Nancy L. Fulks

Notary Public
My Commission Expires: 10/20/2003

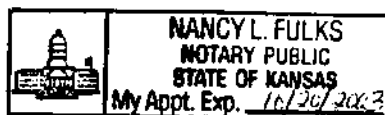
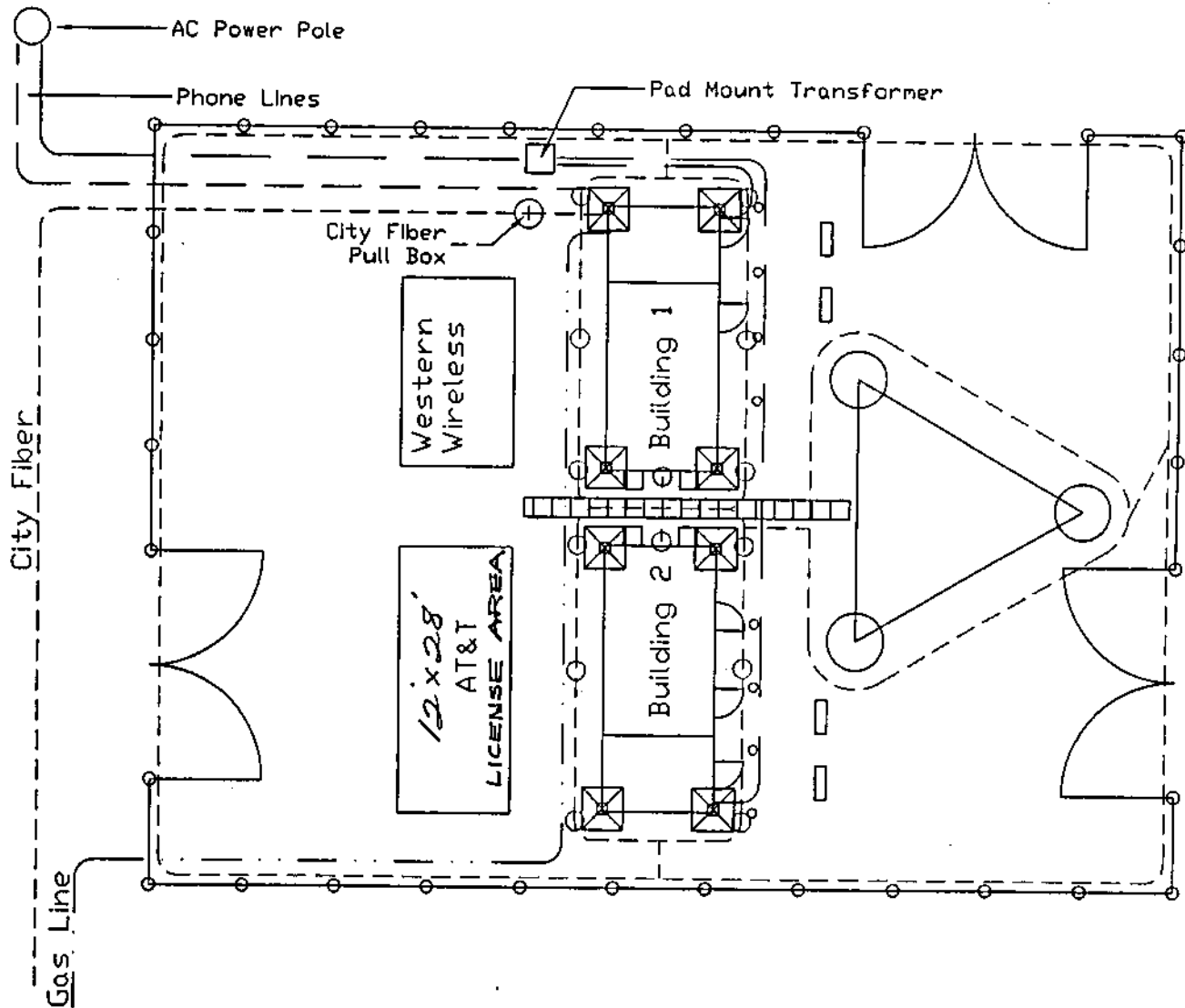
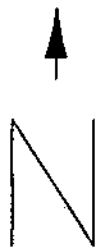


EXHIBIT A

The parent parcel is legally described as:

A tract of land generally located in the Northwest corner of Lot B, Riverside Addition, Lancaster County, Nebraska, and consisting of approximately 8,800 square feet. The Site property runs from a point at the Northwest corner of Lot B 80 feet south along the western lot line of Lot B, then 110 feet east along a line parallel to the northern lot line of Lot B, then 80 feet north along a line parallel to the western lot line of Lot B to a point on the northern lot line of Lot B, then 110 feet west along the northern line of Lot B to the point of beginning.

The Premises is a 12' x 28' portion of the above-described property, and is further shown and depicted on the attached site plan.



General Notes

No.	Revisions/Notes	Date

For Name and Address

Project Name and Number

By	
For	
Date	